

original

NO. 05-18-00567-CV

FILED IN
Court of Appeals

COURT OF APPEALS

JUN 01 2018

FIFTH DISTRICT COURT OF APPEALS,
DALLAS, TEXAS

Lisa Matz
Clerk, 5th District

RECEIVED
COURT OF APPEALS

JUN 01 2018

LISA MATZ
CLERK, 5th DISTRICT

DARLENE C. BALISTRERI-AMRHEIN, APPELLANT

VS.

1. ATTORNEY LENNIE BOLLINGER, et al, WORMINGTON & BOLLINGER
LAW FIRM, et al,
2. PROSPERITY BANK, JO'EL ELONY, KEENA CLIFTON, NAOMI THAMES,
CHRISTINA SANDERS, SANDRA MCDONALD, SUSAN ALGER, et al;
3. MUSKAT, MAHONY, DEVINE LAW FIRM, ATTORNEY MICHELLE MAHONY,
ATTORNEY JOHN GRUFF, et al;
4. UNITED STATES EASTERN DISTRICT COURT OF TEXAS, MAGISTRATE
JUDGE CHRISTINE NOWAK, JUDGE AMOS MAZZANT;
5. COBB, MARTINEZ, WOODLAND LAW FIRM, ATTORNEY CARRIE
JOHNSON PHANEUF, et al;
6. COUNTY COURT AT LAW NO. 6, JUDGE JAY BENDER, et al; APPELLEES

ORIGINAL PROCEEDING from the
COUNTY COURT AT LAW NO. 6, COLLIN COUNTY, TEXAS
JUDGE DAN WILSON (Recused) & JUDGE JAY BENDER, PRESIDING
CAUSE NO. 006-02654-2017

APPELLANT'S SECOND DOCKET STATEMENT

COMES NOW, Appellant, Darlene C. Balistreri-Amrhein to file a Second Docket Statement as requested from this above Appellate Court under No. 05-18-00567-CV as follows briefly:

1) This Appeal was filed before learning Civil Practices & Remedies Code Chapter 11 only Qualifies by Writ of Mandamus, so upon discovery Writ of Mandamus filed on May 25, 2018 in this above Court of Appeals on this same lawsuit Cause No. 006-02654-2017, along with In Forma Pauperis Affidavit & there was no assigned numbers to the writ of Mandamus to date; (Appellant / Realtor contacted Claudia at the Court to inform her of these latest developments & discovery for Appeal Court's information & then received post cards from Lisa Matz, which this filing addresses) (All named Appellees denied "service of process" in conspiracy & cover up.)

2) APPELLANT BRIEFLY STATES THE REASON FOR THIS APPEAL UNLESS WRIT OF MANDAMUS RULES OTHERWISE, BECAUSE LOWER COURT ORDERS DO NOT APPLY TO APPELLANT / PLAINTIFF AS UNSUPPORTED & UNLAWFUL;

Lower Court Judge Dan Wilson, Defendants & Judge Jay Bender as it applies:

- 3) No proper jurisdiction outside of qualified limits of less than \$100,000.00, disqualified;
- 4) Criminal Judge does not have jurisdiction on Probate matters & "legal malpractice:"
- 5) Considers jurisdiction as unnecessary & reckless in following rules of civil procedure;
- 6) Without jurisdiction, not permitted to preside in any lawsuit & sign any Orders;
- 7) Does not have ability to declare jurisdiction as it must be proven or not proper;
- 8) Can't hear lawsuits over \$100,000.00 & this lawsuit is at \$200,000.00 or more as filed;
- 9) This assignment was an error admitted by Judge Mary Murphy as removed from office;
- 10) Discriminates against Plaintiff by age, disabilities, pro se litigant & incapacitated;
- 11) Does not respond to any of Plaintiff's Court filings, shows bias & prejudice;
- 12) Denies Americans with Disabilities Act / ADA federal law with Federal Court Orders;
- 13) Denies Plaintiff as "protected class," who is medically incapacitated Medical Stay;
- 14) Refuses 5 Surgeons letters / statements of Plaintiff's medical condition & treatments;

- 15) Refuses surgeons restrictions & “no work,” calls him & then is slandered in filings;
- 16) Sets up phone conference knowing Plaintiff in ER hospital, MRI, CT Scans, Medicated;
- 17) Claims ADA accommodations, Plaintiff can’t appear, can’t walk, medicated & in pain;
- 18) Did not read or examine Plaintiff’s Court filings as obvious from reproses to Attorneys;
- 19) Does not follow the Texas Rules of Civil Procedure & Federal Rules of Civil Procedure;
- 20) No understanding of “Void Judgments” as void, legal nullity & no enforcements;
- 21) Does not enforce anything against Defendants & Attorneys showing bias & prejudice;
- 22) By denying “Medical Stay” is practicing medicine without a Texas Medical License;
- 23) Not interest in any evidence, any cited Rule of Law, not unbiased triers of facts;
- 24) Participates & allows Conspiracy with Defendants, Attorneys & Other Courts;
- 25) Allows the Federal Court Order of Reversed Judge Nowak to taint & influence case;
- 26) Allows perjury by Defendants & their Attorneys illegally as criminal Judge in case;\
- 27) Allows continued slander against Plaintiff illegally as a criminal Judge in case;
- 28) Allows continued cover up against Plaintiff illegally as a criminal Judge in case;
- 29) Allows Defendants & their Attorneys to attack Plaintiff’s Civil Liberties in case;
- 30) Allows Defendants & Attorneys to attack Plaintiff’s U.S Constitutional Rights in case;
- 31) Allows Defendants & Attorneys to confiscate all Plaintiff’s Medical Records & HIPPA;
- 32) Allows Defendants & Attorneys to confiscate all Plaintiff’s Sensitive Data Id theft;
- 33) Allows Defendants & Attorneys to Threaten Plaintiff, purpose of intimidation & case;
- 34) Allows Defendants & Attorneys to Harass Plaintiff unsafely had to move out of house;
- 35) Allows Defendants & Attorneys to Slander Plaintiff to others calling her a forger;
- 36) Allows Defendants & Attorneys to confiscate Plaintiff’s sworn notarized statements;
- 37) Allows Defendants & Attorneys to Harass Business & person on Plaintiff notaries;
- 38) Allows Defendants & Attorneys to commit Perjury in lawsuit by false claims & filings;

- 39) Allows Defendants & Attorneys to Threaten to seize all Plaintiff's Social Security funds;
- 40) Allows Defendants & Attorneys to cover up legal malpractice by holding case file past "statute of limitations" with accommodations, cause destruction of wrongful death, trust Rights for estate & inheritance, which is videotaped from deceased Anthony J. Balistreri;
- 41) Allows Defendants & Attorneys to cover up crimes of assault, theft, property damages;
- 42) Allows Defendants & Attorneys to cover up filing in wrong court, denied right to jury trial, refused communications for months, refused mediation, bias, prejudice with opposing party, refused timely notice of Court Orders, no proper jurisdiction, refused correction of pleading, lied service of process, denied complete client file, refused to add indispensable parties, refused to examine evidence & prepare for trial, withdraws before hearing suit;
- 43) Allows Defendants & Attorneys to falsely claim trustee representing deceased Balistreri unlawfully & when Attorney & video evidence is submitted to Court that portion of case is refused, because it's automatic "legal malpractice" liabilities against them as matter of law;
- 44) Allows Defendants & Attorneys to engage in collusion & conspiracy with Federal Court Attorneys & Judges to destroy both lawsuits for the same organized RICO affect;
- 45) Judge Bender refuses recusal, Judge Wilson recused self as disqualified by laws;
- 46) Judge Wilson demands responses, while Plaintiff is medicated, hospitalized & refused all court filed evidence, then charges over \$16,000 plus in Attorneys fees unlawfully;
- 47) Allows Defendants & Attorneys allowed to stalk Plaintiff's actions & whereabouts;
- 48) Falsely claims Plaintiff's filings disproves incapacity & medical condition, when they were to prevent their false agenda, lies, conspiracy & cover up no matter the pain in case;
- 49) Allows Defendants & Attorneys to try & silence Plaintiff with false "vexatious litigant" claims, with No Support, No Adverse Orders, separating pending or incorrect lawsuits;
- 50) Plaintiff proved unsupported, no adverse orders pending the Judge refused to consider

any of it allowing a hearing when Plaintiff's hospitalized, emergency, admitted to stop her appearance, considered no filed Objections & no responses to any Plaintiff's Court filings;

51) Judges' only responded to Defendants & their Attorneys filings, except denied recusal;

52) Conspiracy & "Fix was in" with Defendants & their Attorneys as privileged crimes for false advertising, frauds, misrepresentations, abuses, non-communications, property theft, refusal to return property, illegal court filings, undisclosed bias / prejudice with opposing party, destruction, harms, losses & injuries in two lawsuits, now three, illegal acts, false expertise, breach of implied contract & warranty, breach of Texas Bar License, breach of Code of Professional Responsibilities, duty of care, duty as fiduciary, misconduct, lies, fraud by inducements, lack of trust, lack of confidentiality, lack of education, fraud by license & oath, failed obligations, lack of communications, cover up, breached Code of Ethics & Code of Professional Responsibilities, no enforcement of rules, laws, rights, etc.

53) Judges failed enforcement of Texas Rules of Civil Procedure, refused service of process of all named Defendants & Attorneys as Ordered citations May 11, 2018 & Canon Laws;

54) Demands \$160,000.00 plus in security & Attorneys Fees from known indigent as filed In Forma Pauperis knowing no ability to pay as use to dismiss this lawsuit against themselves & all Attorneys as named Defendants; (April 5 & May 14, 2018) ;

55) May 14, 2018 final Order of "vexatious litigant" came from Defendants Attorneys with an questionable signature & typed date to prevent discovery of signer to prevent service of process for all citations against themselves filed on May 11, 2018; (Compare April 5, 2018)

56) Can't be "vexatious litigant" with no Adverse Orders, lawsuits Pending & Appealable under Civil Practice & Remedies Code Chapter 11 as required & only Writ of Mandamus to decide any denial of Realtor Plaintiff's Substantial Equitable, Civil Liberties and all Constitutional Rights, so to Appeal without Writ Order, would be against Order & Laws;

57) Court with no jurisdiction used this CPRC Chapter 11 falsely, knew it was false, continued to use dismissal if money not paid timely unlawfully as motive & agenda from a known poor indigent Plaintiff as abuses & illegal acts to prevent "due process" & dismiss;

58) This was all about extortion of money with intention of paying off the bribe for favoritism & favorable Orders, unenforceable "void judgment" for unjust enrichments;

59) Judge's Order was not mailed until May 18, 2018, when mailed same day or next day & same false or questionable signatures to be examined, believed to be signed by another;

60) May 16, 2018 Plaintiff was informed about Federal Judge Christine Nowak's 8 plus pages of rant & retaliation against Plaintiff filed in Judge Bender's Court to taint case;

61) Federal Judge Nowak has been "reversed on all her Orders, statements & activities" as that case has been reversed back to the Texas Courts by Judge Amos Mazzant 2 memos;

62) Conspirators are Cobb, Martinez, Woodland, Attorney Phaneuf, et al, Defendants Attorney Lennie Bollinger & the Attorneys in the Law Firm of W& B, et al (Several Attorneys), Muskat, Mahony, Devine, Attorney Michelle Mahony & Attorney Gruff, Prosperity Bank, et al, unserved & served Defendants, Magistrate Judge Christine Nowak, Judge Mazzant, Judge Bender, Judge Wilson & First Regional Mary Murphy removed;

63) Attorneys & Judges both Texas & Federal are not above or below the laws & when crimes are committed as evident in this lawsuit, bribery & extortion are nothing to them;

64) Appellant, Realtor, Plaintiff filed for Finding of Fact & Conclusion of Law & opposition from Attorney Phaneuf stated CPRC was not important, but money & dismiss this falsely claimed meritless case. (Attorneys / Defendants no defense trickery for their crimes.)

65) Plaintiff filed Notice of Appeal & Docket Statement, but requested by Lisa Matz to file docket statement within 10 days; (Original Notice file May 15, & Facts file May 16, 2018);

66) May 25, 2018 Realtor, Plaintiff filed necessary court filing for Writ of Mandamus &

inability Affidavit on paying all court costs for “good cause” reasons & approved by multiple Texas & Federal Courts up to & including United States Supreme Court;

67) Plaintiff Social Security low income, unable to work, no other sources of income, unmarketable home with \$100,000.00 plus in needed repairs, Medical Bills, Medical Clearances four times & 3 Surgeries for debt of about \$250,000 on up & still running as Plaintiff is on federal assistance & other federal programs, so no money for court costs;

68) Appellant, Realtor, Plaintiff is incapacitated at this time, going through medical tests for various disabilities, including cardiology to risk of death during these 3 surgeries;

69) Appellant, Realtor, Plaintiff has been delayed neck / spine surgery due to medical interferences from Courts, Judges, Attorneys / Defendants causing duplicate billing losses, personal injuries to person, high risks, deuteriation of health, injuries, pain & liabilities;

70) June is multiple medical clearance tests & surgery is June 21, 2018, which results in neck brace, no movement of head, up, down or sideways, no work, bone stimulations, therapy, no driving, heavy duty medications, no notices timely, no court work, no court responses, no timely demanded court filings to responses, objections or briefs as reported;

71) Appellant, Realtor, Plaintiff's mail is on hold with Post Office & whereabouts unknown at this time between, no home, hospitals & rehabilitation centers with medical care ability;

72) This is serious medical event, is protected by Americans With Disabilities Act / ADA & Appellant, Realtor & Plaintiff is in a “protected class,” Federal Court Order as Disabled;

73) Recovery time for 1st surgery is until July 30, 2018 from neck / spine surgery, so this needs to be put on inactive docket to accommodate Appellant, Realtor, Plaintiff;

74) July 15, 2018 an update medical will be given to this Court as to medical status;

LAWSUITS PENDING & APPEALABLE AS FALSE CLAIMS RESULTS IN CONSPIRACY, COVER UP, EXTORTION OF MONEY, NO “DUE PROCESS, OBSTRUCTION OF JUSTICE & FRAUD UPON THE COURTS”

A) **Prosperity Bank, et al** – No Service of Process on all Defendants, Illegal Transfer from Texas to Federal Court, Denied Medical Care, Threats, Conspiracy, Obstruction of Justice, Fraud Upon Courts, False Filings, False Orders, Refused Recusal, Racism, Trickery, Tampered With Witness, Tampered With Court Records & Sworn Court Transcript, Abusive Deposition, Destruction of Evidence, Refused Discovery, Exparte Communications, Unsupported No Orders, No Medical Accommodations for Disabled, Discrimination of Age, Gender, Disability, Hostile Workplace, Assault Upon Person, Theft of Wages, Under Reporting To Prevent Unemployment, denied Worker's Compensation, \$732.00 of removed wages, forced to work off clock & no wages, Refused Medical Excuse, Retaliation & false Termination, Bullying, Blocking, Attacks, Withholding W-2 IRS Reporting for 1 year, Fraudulent Settlement Offer To Report U.S. Government for Advance Notice of Investigations, Conspiracy between 2 Defense Attorneys, Obstruction to Prevent Service To Shift Judgment & Liability Over To Unsuspecting named Employees, Management Not Addressing Complaints & Attempted Theft of \$400.00, Tampered With Court Records, Abusive Deposition, Removal of Court Filed Records, Paying Money To Middle Eastern Without Proper Identification Against Homeland Security Rules, Destruction of Videos As Evidence of Illegal Acts, Refusal of Discovery, Refusal of Employment File, Refusal of Accountability of Wages, Fraudulent Claims & Information to Texas & Federal Agencies, Bank Frauds, Violations of Most United States Labor Laws, Extort Money, Conflict of Interest, Bias, Prejudice, Retaliation, Lack of Jurisdiction, Void Judgments, Frauds, Violated Laws, Multiple Harassments, Personal Injuries, Denied Constitutional Rights, RICO, Medical Care Denied, Threats, Slander & Character Assassination, with attempts to charge Defendant / Plaintiff for Prosperity Bank, et al & their Attorneys Criminal Acts, Frauds, Choice as Probable Causes & this lawsuit is still **PENDING & APPEALABLE** (does not justify any costs as plenty of theft.)

Filed December 6, 2016 – Transferred banned Worker's Compensation illegal January 8, 2018; Federal Court reversed al Judge Nowak Orders & Remanded Lawsuit back to Texas Courts;

Time Frame 1 year. 5 months, 519 Days & still no proper service to all Defendants, no valid lawsuit, no proper jurisdiction, no jury trial, no fairness, no medical care & no Justice !

B) La Madeleine, Inc. Lawsuit – Refused & Ignored Federal Court Order of May 24, 1996, Denied Medical Care, Threats, Conspiracy, Obstruction of Justice, Fraud Upon Courts, False Filings Perjury, Fraud Orders, Denied Court Reporter to Prevent Appeals, Bribe of Judge For Favorable Court Order, Refused Court Filings Service, Refused Abatement, Refused Recusal, Trickery, Tampered With Witness, Tampered With Court Records & Sworn Court Transcript, Destruction of Evidence, Refused Discovery, Exparte Communications, Unsupported Orders, Conflict of Interest, Bias, Prejudice, Retaliation, Lack of Jurisdiction, Void Judgments, Frauds, Violated Laws, 4 Appeals Reversed, Illegal Sanctions Reversed, Harassments, Personal Injuries, 4 Operations Result Permanent Life Long Injuries, No Constitutional Rights, RICO, Criminal Acts, Choice, Judicial Misconduct Conflict of Interest & Justice With 33 years of Relationship with 6 + Defendants To This Lawsuit, so Recused & Disqualified by Law, (§ 455a, b, § 144) Frauds. This lawsuit was heard without reinstating the case lacking jurisdiction for 10 Years & 2 Appeals Notices of Legal Nullities & Void Judgments All Reversed as invalid that I won & Probable Causes For This Lawsuit per Dept. of Justice still **PENDING & APPEALABLE**

Filed December 6, 1996 – 10 years Bankruptcy Stay as legal nullity per Appellate Court for no reinstatement, January 15, 2012, Bribe June 2012, Federal Lawsuit not heard & Appeal pending;

Time Frame - La Madeleine Lawsuit – 7,824 Days. 21 Years, 5 Months, 3 Days & still , no Service of Process, no discovery, no required evidence, no valid Appeal, no fairness, no enforced Federal Order, no proper jurisdiction, no un bias trier of fact, no jury trial, no term insurance, no Justice, “Bad Faith Intent,” & Choice with Theft of Long Term Disability Insurance, etc.:(Cost 0)

C) Winsley Home Lawsuit – Undisclosed, no proper filed deed, fraudulent taxes, theft of money, conspiracy, cover up, fraudulent closing, fraudulent invalid real estate contract, violated Probate Order, damages & theft of property, tampered with court records, theft of Appeal money for court & evidence by blank pages, to create errors for enrichment by false Appeals, campaign

contributions for favorable Orders, denied service, Order after plenary powers expired, conflict of interest, bias & prejudicial judge, abusive deposition, refused insulin for days during deposition, tampered with trustee Bankruptcy funds, no hearing in federal court, denied court record for briefing references, ignored Probate Order, denied court filings, denied medical care, denied errors corrections, no title policy, no refund on refused title policy, frauds from April 30, 2007, fraud taxes / appraisal, No final Texas Orders, filed in Federal Court, no hearing no fact witness testimony, no evidence accepted before the Court, fraudulent statements, conspiracy, cover up, RICO with Judges, Ignored Probate Court Orders, no approval of sale, refused 2 years after death for Probate Court Order denial of sale, invalid real estate contract, fraudulent home inspection, fraudulent real estate commission, money moved across state lines, fraud closing, refused documentations, refused receipts of sale, refused valid deed, no title policy, theft of title policy paid money of \$3,300.00 by Defendants & Counsel Choice, no due process, No U.S. & Texas Constitutional Rights, violate HIPPA Laws, Conspiracy to defraud as Professional Scam Manager & Agents, Frauds, Probable Causes for this Lawsuit **PENDING & APPEALABLE** **Filed May 19, 2008** in Collin County Courts, No Final Order, moved to U.S. Northern District Court, no hearings, no proper jurisdiction, no fact witnesses, all denied court filings, denied Medical Care, Refused all Evidence, Refused Court Record for timely briefing, false claims to silence, reported to Department of Justice, informed to refile in U.S. Eastern District Court, no service of process, no summons, no examination of evidence, extort money to Appeal, Refused Recusal, tampered with Court records, etc. pending before named Defendant Court of Appeals; **Time Frame – 3,642 Days, 9 years, 11 Months & 20 Days,** still no fairness, no due process, no valid lawsuit , no jury trial, no Justice, “Bad Faith Intent,” Bad Choices , etc. (Costs 0)

D) Attorney Lennie Bollinger, et al & Wormington & Bollinger Law Firm, et al:

Lawsuit # 1 - Fraud Advertising, Fraud Representations, Ignored Statute of Limitations & Expired as Wrongful Death Case File is held & expired, Returned unexamined, no communications, lost rights for being drugged & beaten to death losing 46 pounds in 6 weeks as starved, Medicare Frauds, Bollinger et al held file from June 2015 to Nov. 2015 knowing Statute

of Limitations ended Sept. 24, 2015, falsely claims trustee, next of kin & daughter has no rights to seek counsel for representation of father's wrongful death, personal injuries, abandoned, etc., while Defendants never inspected any documents in the demanded case file for months & kept;

Lawsuit # 2 – Fraud Representations, filed in wrong court that lacks jurisdiction, files incomplete & incorrect pleadings, refuses all corrects, lies about service of process time & place, refuses Mediation Orders, refuses to add all pleadings stated claims of Assault, theft of property, damages to home, loss of 5 months of rent, fraud misrepresentations, con man scam, scheme & lies of “bad faith” intent & premeditation, driving drunk after 6 months jail time incarceration with fines & fraudulent used to stay as renter upstairs in home to take advantage of me, while making threats, etc., both lawsuits represented by Attorney Bollinger & Wormington & Bollinger, et al Law Firm, who withdrew days before jury trial, no jury trial due to lack of jurisdiction, no signed Order causing no Appeal resulting in fraudulent Attorneys fees & “void judgments” to be re-sued, while multiple Judges claimed I had “good evidence” to win in jury trial & reported criminal charges; This lawsuit was by bad choices of Defendants Bollinger & Law Firm & Defendant Schroeder, who he appeared to have a fondness for in representation & wanted me to settle this \$13,200.00 lawsuit & Assault for just \$200.00. This above lawsuit is the result of the “legal malpractice” of Defendants Attorney Bollinger & Wormington & Bollinger Law Firm that is still Bad Choices & Probable Causes, to Sue, not frivolous lawsuits or Adverse Orders; **PENDING & APPEALABLE**

Time Frame – 194 days, OR 6 months & 12 days for this lawsuit does not justify any costs;

75) I know the above lawsuits A to D of my own personal knowledge from 1996 to the present day of this current filing & any other lawsuits claimed by Conspirators Attorney Carrie Phaneuf, Attorney Mahony & their respective Law Firms are totally false, Obstruction of Justice & Fraud Upon The Courts by commit Perjury as stated in their Court filings & deliberate acts by dates;

76) I know for a fact there is no Adverse Orders as required under Civil Practice & Remedies Code Chapter 11 to apply to any "vexatious litigant" Orders that are not supported & prejudicial;

77) May 14, 2018 Judge Jay Bender signed the Order to this lawsuit on the false "vexatious litigant claim as final judgment & charges all cost to Plaintiff as an in forma pauperis on an Obstruction of Justice & "Fraud Upon the Courts" to protect the Attorneys & himself in this lawsuit for all corruption, in less than 1 hour notice of the suit against all participants in this judicial conspiracy as an attempt to silence Plaintiff, Realtor & Appellant taking advantage of her health conditions;

78) Appellant is requesting that this Court Record Cause No. 006-02654-2017 be examined & considered for the Writ of Mandamus & this Appeal as requested from the lower Court with Affidavit of In Forma Pauperis submitted for complete court record, filings, exhibits & evidence !

79) Court Record contains Sworn Affidavits, Court Filings, Evidence, Accounting of Attorneys Fees, during Conspiracy, Collusion & Cover Up to "Obstruct Justice & commit "Frauds Upon Courts, No Jurisdiction, Discriminations, Exparte Communications, Trickery, No Due Process, Bias, Prejudice, Retaliation, Civil Liberties, Taints & Constitutional Rights violated & denied;

RELIEF SOUGHT & OTHER VIOLATIONS OF RULES & LAWS UNFAIRLY & MISCARRAGES OF JUSTICE

80) Reversal of All Orders, Costs & "Vexatious Litigant" claims, Service of all named Defendants, Move lawsuit to proper jurisdiction with a Judge who is qualified as unbiased trier of fact, enforcement of all rules, laws, due process & all U.S. & Texas Constitutional Rights. Costs of all duplicate bills to Medicare as liable & cost for interference in medical care, pain, suffering, conspiracy, threats, loss of privacy, Civil Right & Liberties liabilities & payment of all Court Costs by Appellees for violations committed causing this Appeal as applicable rights. This includes pain, suffering, personal injuries caused to Appellant, Realtor, Plaintiff & no Medical Stay as "protected class" Disabled American with Federal Court Ordered Disabilities. Medically out & unavailable all June, 2018 & all July, 2018, so no dirty tricks, no demands & no responses.

OTHER VIOLATIONS OF RULES & LAWS UNFAIRLY & MISCARAGES OF JUSTICE:

[J]udges must be able to rule in accordance with the law which they believe applies to the case before them, free from extraneous considerations of punishment or reward. This is the central value of judicial independence. That value is threatened when a judge confronted with a choice of how to rule-and judges are confronted with scores of such choices every day-must ask not "which is the best choice under the law as I understand it," but "which is the choice least likely to result in judicial discipline?"

On the other hand, the code of judicial conduct does require a judge to "respect and comply with the law," 4 to "be faithful to the law and maintain professional competence in it," 5 and to "accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law." 6 Moreover, it would be incongruous if the principle "ignorance of the law is no excuse" applies to everyone but those charged with interpreting and applying the law to others. Thus, while mere legal error does not constitute misconduct, "[j]udicial conduct creating the need for disciplinary action can grow from the same root as judicial conduct creating potential appellate review. . . ." This article will review both cases in which a finding of misconduct was based on legal error and cases in which legal error was not sanctioned to describe the "something more" that transforms legal error into judicial misconduct.

The possibility of an appellate remedy for a particular judicial act, therefore, does not automatically and necessarily divest the judicial discipline authority of jurisdiction to review the same conduct

Judicial independence requires a judge to commit to following constitution, statutes, common law principles & precedent without intrusion from or intruding upon branches of government.

Judicial discipline for legal error can often result in removal but may simply lead to a reprimand, censure, or suspension.

Remarks imply a bias, that is, a preconception or predetermined point of view about the case, parties or issues before the court & judge that could impugn the impartiality and open-mindedness necessary to make correct and sound determinations in the application of the law.

Noting that a judge "may comment on the law & even express disapproval of the law, as long as his or her fairness & impartiality are not compromised,"

If a judge fails to exercise judicial discretion, "mere legal error" rule is not a defense to a charge of misconduct based on resulting decision. Such a decision is not entitled to protection of judicial independence principles. The reasonable judge of our standard must be reasonable both in prudently exercising his judicial powers & in maintaining his professional competence.

Although there are cases in which misconduct has been found based on one erroneous decision, most cases in which judicial error was elevated to level of judicial misconduct involved more than 1 example of legal error & pattern is one of identified exceptions to "mere legal error" rule.

Presence of bad faith can render an exercise of legal judgment judicial misconduct. "Bad faith" in this context means "acts within the lawful power of a judge which nevertheless are committed

for a corrupt purpose, i.e., for any purpose other than the faithful discharge of judicial duties. "Even just a single error can lead to a finding of misconduct if judge was acting in "bad faith" or intentionally failed to follow the law," as in this lawsuit.

If a judge acts out of pique or to exact revenge, judge's decision loses protection of "mere legal error" rule with conspiracy, frauds, bias, prejudice, obstruction of justice & fraud upon courts, schemes, no jurisdiction, retaliation, criminal acts, no judicial duties & no immunities exist. An intentional failure to follow the law, even with a benign motive, constitutes bad faith and consequently judicial misconduct

"Egregious" legal errors have been identified as a type of error that justifies disciplinary as well as appellate review. 132 "Egregious" implies something different than bad faith or a pattern of error as those are listed as separate grounds for departing from the mere legal error rule. Although "egregious" is a subjective term, the most obvious example of an egregious error is a denial of constitutional rights.

Findings of judicial misconduct have also been made where a judge conducted a single civil case in a manner that departed completely from the usual procedures required by adversary system.

Darlene C. Balistreri-Amrhein was stripped of right to notice and her right to be heard, ADA accommodations, Civil Liberties & U.S. Constitutional Rights & Applicable law totally ignored.

Although courts & commissions are generally reluctant to second guess a judge's decision to control the courtroom through use of contempt power, failure to adhere to proper procedures when exercising contempt power is cognizable in judicial discipline process given liberty interests at stake. Darlene C. Balistreri-Amrhein never met Judges as *ex parte* with attorneys only.

"In the absence of fraud, corrupt motive or bad faith, the Commission shall not take action against a judge for making findings of fact, reaching a legal conclusion or applying law as he understands it. Claims of error shall be considered only in appeals from court proceedings."

The rule allows for protection of judicial independence & many exceptions allow commissions & reviewing courts to hold judges accountable for decisions that are clearly contrary to law, that were reached without following procedures that confer legitimacy & credence upon judicial actions, that represent an exercise of discretion motivated by bad faith, or that reflect repeated legal error cannot be attributed to an honest mistake. (No jurisdiction, denied rights & frauds.)

Obstruction of justice is criminal offense of interfering with (1) administration or process of law, (2) withholding material information or false testimony, or (3) harming or intimidating a juror, witness, party, or officer(s) of law.

The Crime of Obstruction of Justice generally includes crimes committed by judges, prosecutors, attorneys, general, & elected officials. It's considered misfeasance, malfeasance or nonfeasance in conduct of the office. However, prosecutors & attorneys commit obstruction of justice when they fail to prosecute judges & other government officials for malfeasance, misfeasance or nonfeasance in office. (Crimes have consequences & no one is above or below the law!)

Obstruction charges are laid when it is discovered non-suspect person has lied to investigating officers. Obstruction charges can also be laid if a person alters or destroys physical evidence, even if s/he was under no compulsion to produce such evidence, at any time. Obstruction of justice is a broad concept that extends to any effort to prevent execution of lawful process or the administration of justice in either a criminal or civil matter as in this lawsuit.

Obstructive conduct also includes intimidation of potential witnesses or retaliation against actual witnesses, preparation of false testimony or other evidence, or interference with jurors or other court personnel. The purpose of criminal obstruction statutes is to protect the integrity of legal proceedings & at same time, protect those individuals who participate in such proceedings.

Fraud on the Court, or Fraud upon the Court, is where a material misrepresentation has been made to the court, or by the court itself. The main requirement is that the impartiality of the court has been so disrupted that it can't perform its tasks without bias or prejudice as in this lawsuit.

Some examples of fraud on the court include:

- Fraud in service of court summons (such as withholding a court summons from a party)
- Corruption or influence of a court member or official
- Judicial fraud
- Intentionally failing to inform the parties of necessary appointments or requirements, in efforts to obstruct the judicial process
- "Unconscionable" schemes to deceive or make misrepresentations through court system

Fraud on the court only involves court officials or officers of the court, such as judges or court-appointed attorneys. The fraud must be directed at the "judicial machinery" itself.

Fraud on the court is one of the most serious violations that can occur in a court of law. If fraud on the court occurs, the effect is that the entire case is voided or cancelled. Any ruling or judgment that the court has issued will be void. The case will usually need to be retried with different court officials, often in an entirely different venue.

For official(s) who acted in fraud upon the court, they may very well be required to step down from their position & may even be subjected to criminal consequences like a fine or jail time. It could result in other serious consequences, such as an attorney(s) being disbarred, or a judge being removed from service.

If a court official is found to be biased or prejudiced even before fraud occurs, they are required to excuse themselves from the case, & different official must be appointed. In some jurisdictions, a trial tainted by fraud on the court will be vacated or set aside for a certain time period (such as two years), to be "reopened" at a later date. Fraud on the court can be devastating, especially for a party that may be waiting to receive relief from the court.

Fraud on the court should embrace only that species of fraud which does or attempts to, subvert the integrity of the court itself, or is a fraud perpetrated by officers of the court) (citation omitted); *Kerwit Med. Prods., Inc. v. N. & H. Instruments, Inc.*, 616 F.2d 833, 837 (11th Cir.

1980). Fraud on the court must involve an unconscionable plan or scheme which is designed to improperly influence the court in its decision *Davenport Recycling Assocs. v. C.I.R.*, 220 F.3d 1255, 1262 (11th Cir. 2000) (alleged fraud on tax court). It has been found only in those instances where the fraud vitiates the court's ability to reach an impartial disposition of the case before it, there was fraud; there was fraud on the court; and there was a conspiracy to defraud. This fraud was intentional. The fraud was perpetrated by officers of the court. *Herring*, 424 F.3d at 386. A judge is an officer of the court, as are all members of the Bar. A federal judge is a federal judicial officer, paid by the federal government to act impartially and lawfully. A judge is not the court. *People v. Zajic*, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980). Chief Justice John Marshall acknowledged that a court may grant relief from judgment where a new matter "clearly proves it to be against conscience to execute a judgment, and of which the injured party could not have availed himself before judgment. *Marine Ins. Co. of Alexandria v. Hodgson*, 11 U.S. (7 Cranch) 332, 336 (1813). He further emphasized that an Article III court can grant relief where "equity of the applicant [is] free from doubt," and where a judgment "*would be against conscience for the person who has obtained it to avail himself.*" *Id.* at 337 (emphasis supplied).

Federal Rules of Civil Procedure 60(b) and 60(d) as well as independent actions in equity may all be used to seek to vacate orders and judgments due to fraud upon the courts. One of the essential elements of an independent action in equity is a showing of the absence of any adequate remedy at law. *Bankers Mortgage Co. v. United States*, 423 F.2d 73, 79 (5th Cir. 1970). The Supreme Court has further noted that an independent action in equity should be available only to prevent a grave miscarriage of justice. *United States v. Beggerly*, 524 U.S. 38, 47 (1998). The absence of any adequate remedy at law. *In re Machne Israel, Inc.*, 48 F. App'x 859, 863 n.2 (3d Cir. 2002) (quoting *Nat'l Sur. Co. of N.Y. v. State Bank of Humboldt*, 120 F. 593, 599 (8th Cir. 1903)). "[A]n independent equitable action for relief from judgment may only be employed to prevent manifest injustice." *Id.* at 863. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), and *United States v. Beggerly*, 524 U.S. 38 (1998), this Court's leading recent discussions of fraud upon the court.

Darlene C. Balistreri-Amrhein has experienced all as stated above, crimes, illegal acts & "void judgments" by Judges Jay Bender, Dan Wilson, Mary Murphy, all named Attorneys within this lawsuit for this case, Scams, Scheme of Conspiracy, Frauds, Obstruction of Justice & Fraud Upon Courts, without applications of rules, civil liberties, rights & laws. With all stated claims & merits of this lawsuit it is obvious that trickery, illegal & unethical tactics must be used with no defense to dismiss this court filed lawsuit, which the judges on in on to protect unethical & criminal acts of these Attorneys in violation of Professional Code of Conduct, CCBE & Canon Rules violated. The attorneys were knowing participants in fraud on the court. Bogus documents placed into record. Lies told under oath in affidavits & in various filings with courts, & schemes concocted to attempt to cover-up certain falsehoods. Attorneys involved & promoted which needs to be reversed, heard before an unbiased trier of fact, proper jurisdiction, all Defendants "service of process" to be a valid lawsuit with fair & just outcome by Rules, Laws, Civil Rights, United States & Texas Constitutions, as disabled person "protected class" with 5 surgeons letters of Medical Stay, medical restrictions denied ADA in this Court by all Court named Defendants, Judges, Attorneys, Law Firms, Respondents, Appellees associated to this lawsuit & all Appeals !

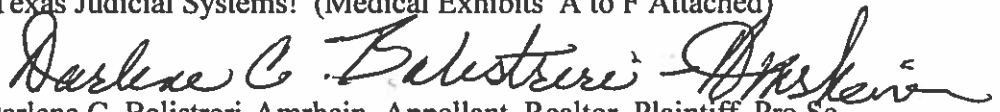
IN CONCLUSION & PRAYER

81) Appellant, Realtor, Plaintiff prays for smooth surgery & recovery as the neck is opened to spine & some bone is removed to free up nerves & spinal column, which requires medical restrictions, braces, therapy & bone growth stimulations with constant medical attention as elderly diabetic "high risk," so peace & no worries is what is needed with good care. Appellant, Realtor, Plaintiff prays this last docket statement is correct as can't do another. Appellant, Realtor, Plaintiff's prays the Courts, Judges, Justices & Attorneys / Defendants understand the gravity of these circumstances & if thought is we are off the hook if she dies, guess again, as you have become more liable as my family & estate will sue for all liabilities caused for wrongful death with Ethical Attorneys. Merits of this lawsuit requires "due process" by Rights & Rule of Laws. It is no wonder there is no defenses & no one wants to receive "service of process," refusing citations / summons, so used FRAUDS to stop this lawsuit! Denied "service of process" is apart of Writ of Mandamus & this Appeal as Docketed for Conspiracy, Cover Up, Collusion, "Obstruction of Justice" & Fraud Upon Courts As Reported to authorities, so it appears Writ of Mandamus should be decided first to reverse false "vexatious litigant" fraud Order & costs to see if an Appeal is necessary to decide other legal matters. Appellant is not available for Oral Argument at this time. The Final Order is invalid, incomplete, conspiracy, cover up, Obstruction of Justice, Fraud Upon Courts & illegal with no proper jurisdiction.

Appellant prays for fairness, due process, unbiased triers of fact as matter of laws, rules under colour of Laws & enforcement of all existing Laws, Liberties & Rights, no "conflicts of interest," bias, prejudice, unfair advantages, retaliations, no jurisdiction & unenforceable "void judgments" in this lawsuit as this is a Prime Lawsuit of Corruption, Treason War Against United States Constitution, Disgraceful Misconduct Against Congress, Litigants, Disabled, Indigent, No Due Process, United States & Texas Judicial Systems! (Medical Exhibits A to F Attached)
May 28, 2018

Respectfully submitted,

Darlene C. Balistreri-Amrhein, Appellant, Realtor, Plaintiff, Pro Se



5/28/18



Texas Back Institute®

February 6, 2018

Re: Darlene Amrhein

To: Whom It May Concern,

Ms. Darlene Amrhein is a 71yr old female who was evaluated on 1/26/18 secondary to cervical and lumbar related diagnoses: M47.12 cervical myelopathy, M99.31 osseous stenosis of neural canal of cervical region, M43.16 lumbar spondylolisthesis, and M99.33 osseous stenosis of neural canal of lumbar region. These diagnoses do require surgical intervention as they are currently affecting bodily function with complaints of urinary incontinence and retention, in addition to increasing difficulty with gait and coordination which can pose a threat for somebody with a diagnosis of cervical myelopathy. Pt has had to modify her daily activities, she is currently ambulating with a cane. First, I would address her cervical myelopathy with a posterior spinal fusion from C3-4 with laminectomy; this surgery is medically necessary in order to correct the level of severe cervical stenosis while providing vertebral stability. Then, I'd need to address her lumbar issues with an open 360 L4-S1. Her total post op disability time will be approximately 6 months post-operatively. Routine follow ups will be necessary in order for us to evaluate her return to work status closer to that 6 month post-op marker. Pt did require urgent work up as her symptoms have definitely deteriorated. Please contact my offices in the events that more information is necessary or in the events that clarification is needed. Our phone number is 972-608-5000; our fax number is 972-608-5160.

Respectfully,

Rajesh G. Arakal, M.D.

Enkelat A.



February 23, 2018

Re: Darlene Amrhein

To: Whom It May Concern,

Ms. Darlene Amrhein is a 71yr old female who was evaluated on 1/26/18 secondary to cervical and lumbar related diagnoses: M47.12 cervical myelopathy, M99.31 osseous stenosis of neural canal of cervical region, M43.16 lumbar spondylolisthesis, and M99.33 osseous stenosis of neural canal of lumbar region. These diagnoses do require surgical intervention as they are currently affecting bodily function with complaints of urinary incontinence and retention, in addition to increasing difficulty with gait and coordination which can pose a threat for somebody with a diagnosis of cervical myelopathy. Pt has had to modify her daily activities; she is currently ambulating with a cane. First, I would address her cervical myelopathy with a posterior spinal fusion from C3-4 with laminectomy; this surgery is medically necessary in order to correct the level of severe cervical stenosis while providing vertebral stability. Then, I'd need to address her lumbar issues with an open 360 L4-S1. Her total post op disability time will be approximately 6 months post-operatively. Routine follow ups will be necessary in order for us to evaluate her return to work status closer to that 6 month post-op marker. Pt did require urgent work up as her symptoms have definitely deteriorated. Currently, *pt is to remain off work* as she cannot complete her usual work duties secondary to the severity of her cervical and lumbar pathology; pt is to remain off work in light of the fact that we are preparing for surgical intervention and continued work could exacerbate her pain and lead towards further deterioration. Please keep pt off of work. Please contact my offices in the events that more information is necessary or in the events that clarification is needed. Our phone number is 972-608-5000; our fax number is 972-608-5160.

Respectfully,

Rajesh G. Arakal, M.D.



March 27, 2018

Re: Darlene Amrhein

To: Whom It May Concern,

Ms. Darlene Amrhein is a patient of mine who is scheduled to undergo a Posterior Cervical Fusion from C3-4 with Laminectomy and Allograft on 4/26/18; no court work is to be done at that time. Currently, pt is to remain off work as she cannot complete her usual work duties secondary to the severity of her cervical and lumbar pathology; pt is to remain off work in light of the fact that we are preparing for surgical intervention and continued work could exacerbate her pain and lead towards further deterioration. Please keep pt off of work. Please contact my offices in the events that more information is necessary or in the events that clarification is needed. Our phone number is 972-608-5000; our fax number is 972-608-5160.

Respectfully,

Rajesh G. Arakal, M.D.

exhibit C



April 10, 2018

Re: Darlene Amrhein

To: Whom It May Concern,

THIS IS A REPEATED NOTIFICATION OF INABILITY TO WORK.

Ms. Darlene Amrhein is a patient of mine who is scheduled to undergo a Posterior Cervical Fusion from C3-4 with Laminectomy and Allograft on 4/26/18; no court work is to be done at that time. Currently, pt is to remain off work as she cannot complete her usual work duties secondary to the severity of her cervical and lumbar pathology; pt is to remain off work in light of the fact that we are preparing for *surgical intervention and continued* work could exacerbate her pain and lead towards further deterioration. Please keep pt off of work and review the multitude of prior letters which support this statement. Please contact my offices in the events that more information is necessary or in the events that clarification is needed. Our phone number is 972-608-5000; our fax number is 972-608-5160.

Respectfully,

Rajesh G. Arakal, M.D.

Exhibit D

01111111



Texas Health
Physicians Group[®]

**TEXAS CENTER FOR JOINT
REPLACEMENT**

**6020 West Parker Rd
Suite 470**

Plano TX 75093-8338

Phone: 972-608-8868

Fax: 972-608-0366

Date: 5/9/2018

Roger H. Emerson, Jr., MD
Richard D. Reitman, MD
Kwame Ennin, MD
Karim Elsharkawy, MD

TO WHOM IT MAY CONCERN

RE: RETURN TO WORK STATUS

This letter is to certify that Darlene Carol Amrhein is a patient under my care. She will be undergoing surgery with me due to internal derangement of the right knee. My request to have her off of work until further notice. If you have any questions, please give our office a phone call.


Sincerely,

Dr. Reitman

Exhibit E

AFTER VISIT SUMMARY

Darlene C. Amrhein DoB: 7/18/1946

5/24/2018 3:15 PM  BAYLOR SCOTT & WHITE LEGACY HEART CENTER 469-800-6300

Instructions from David A Schwartz, MD

- Discontinue order for myocardial PET scan.
- Instead, schedule dobutamine echocardiogram, next available.
- Follow-up appointment in 3 months.
- Cardiac risk for surgery to be determined as a result of the dobutamine echocardiogram.



Return in about 3 months
(around 8/24/2018).

What's Next

You currently have no upcoming appointments scheduled.

Preventive Care

Topic	Due
A1c	07/18/1946
Hepatitis C Screening for Baby Boomers	07/18/1946
Diabetic Foot Exam	07/18/1956
Diabetic Eye Exam	07/18/1956
Urine Microalbumin	07/18/1956
Mood Screen	07/18/1958
Medicare Wellness Visit	07/18/1964
Tetanus Booster Vaccines	07/18/1965
Lipid Screening	07/18/1986
Colorectal Cancer Screening: Colonoscopy	07/18/1996
Zoster Vaccine	07/18/2006
Osteoporosis Screening	07/18/2011
Pneumococcal Vaccines (1 of 2 - PCV13)	07/18/2011
Breast Cancer Screening	06/01/2018
Seasonal Influenza Vaccine (Season Ended)	10/01/2018

Allergies as of 5/24/2018

Iodinated Contrast- Oral And Iv Dye
 Levofloxacin
 Prednisone

Ekkehart F

Today's Visit



You saw David A Schwartz, MD on Thursday May 24, 2018. The following issues were addressed:

- Heart murmur
- Bifascicular block
- Dyspnea on exertion
- Dyslipidemia associated with type 2 diabetes mellitus (HCC)
- Type 2 diabetes mellitus without complication, with long-term current use of insulin (HCC)



Blood Pressure
120/72



BMI
38.55



Weight
204 lb



Height
61"



Pulse
81



Oxygen Saturation
95%



MyBSWHealth

Our records indicate that you have declined MyBSWHealth sign up. If you would like to sign up for MyBSWHealth, please call 855-691-0180 to obtain an activation code.

VERIFICATION / AFFIDAVIT

No. 05-18-00567-CV

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Appellant Darlene C. Balistreri-Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Appellant's Second Docket Statement, Civil Docket Statement & Attached Affidavit.

This information as referenced and stated within is true and correct and of Darlene C. Balistreri-Amrhein's own personal knowledge to the best of her ability & documented. This state and or federal filing is for purpose of "due process," fairness, "due process" & Justice under State and Federal Laws & presented in applicable Courts attached as sited for consideration of this Court filing.

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Appellant, Pro Se

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON 5/29, 2018 to
certify which witness my hand and official seal.

MALACHI HACKETT

Notary Public of Texas (Printed Name)

SEAL:



M. Hackett

Notary Public of Texas (Signature)

Commission Expires 10-29-2018

Certificate of Service

A true and correct and copy of Appellant's Second Docket Statement has been served by certified mail through United States Post Office on or about May 28, 2018 to following:

Court of Appeals Fifth District Court, et al (Appeal No. 05-18-00567-CV)

600 Commerce Street, Suite # 200

Dallas, TX. 75202-4658

Certified Mail 7016 1970 0001 1779 9900

Judge Jay Bender & County Court at Law No. 6, et al

Russell A. Steindam Courts Building,

2100 Bloomdale Road, Suite 30354

Collin County, Texas 75071

Certified # 7016 1970 0001 1779 9917

Cobb, Martinez, Woodland, Attorneys Elrich, Phaneuf, et al, Attorney Lennie Bollinger, W&B Law Firm, et al

1700 Pacific Ave, Suite # 3100

Dallas, TX. 75201

Certified Mail 7016 1970 0001 1779 9924

United States Eastern District Court, Judges Nowak & Mazzant, et al

7940 Preston Road. Room 101

Plano, Texas 75024

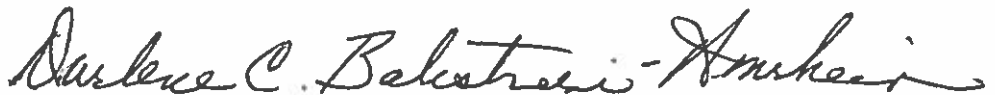
Certified Mail 7016 1970 0001 1779 9931

Muskat, Mahony, Devine, Gruff, et al & Prosperity Bank, et al

1201 Louisiana Street, Suite # 850

Houston, TX. 77002

Certified Mail 7016 1970 0001 1779 9948



Respectfully submitted, Darlene C. Balistreri-Amrhein, Appellant, Realtor, Plaintiff, Pro Se

5/28/18